Taber Partners I, d/b/a Ambassador Plaza Hotel & Casino, a Radisson Plaza Hotel and/or Taber Partners I and Union Gastronomica de Puerto Rico, Local 610, HEREIU, AFL—CIO. Case 24—CA—7173

September 13, 1995

DECISION AND ORDER

By Chairman Gould and Members Browning and Cohen

Pursuant to a charge and an amended charge filed by the Union on April 20 and May 26, 1995, respectively, the General Counsel of the National Labor Relations Board issued a complaint on May 30, 1995, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish relevant and necessary information following the Union's certification in Case 24–RC–7629. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); Frontier Hotel, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint, and submitting affirmative defenses.

On August 14, 1995, the General Counsel filed a Motion for Summary Judgment. On August 16, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The complaint alleges that since about March 29, 1995, the Respondent has refused to recognize and bargain with the Union as the exclusive bargaining representative of the unit. In addition, the complaint alleges that since about the same date, the Respondent has failed and refused to furnish the Union with the following information requested by the Union in mid-March 1995:

- (1) Names of all croupiers, cashiers, slot machine cashiers and doormen that work in the casino.
- (2) Date of employment, job classification and hourly wage rates of the employees in the unit.
- (3) Policies and practices with regard to employee wage increases.
- (4) Information on probationary period for new employees and on when an employee becomes a regular employee.

(5) Copy of the Regulations and of the terms and conditions of employment of the casino employees.

Finally, the complaint alleges that the Respondent has also failed and refused to furnish the Union with the following information requested by the Union about March 21 and 29, 1995: a list of all croupiers, cashiers, and porters, with their addresses, who work at the Respondent's casino.

In its answer the Respondent admits its refusal to bargain and to furnish the requested information, but attacks the validity of the certification on the basis of its objections to the election. In addition, the Respondent denies that the unit is appropriate and asserts that it is without knowledge whether the Union is a labor organization. Finally, the Respondent asserts that it is also without knowledge whether the information requested by the Union is relevant and necessary.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that there are no issues warranting a hearing with respect to the information requested by the Union. It is well-established that such information is presumptively relevant and must be furnished on request. See, e.g., Masonic Hall, 261 NLRB 436 (1982); and Mobay Chemical Corp., 233 NLRB 109 (1977).

Accordingly, we grant the Motion for Summary Judgment and will order the Respondent to recognize and bargain on request with the Union and to furnish it the information requested.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times the Respondent, a New York limited partnership duly authorized to do business under the laws of the Commonwealth of Puerto Rico with an office and place of business in the Condado area of San Juan, Puerto Rico (the Hotel), has been engaged in the operation of a hotel providing food, lodging, a casino, and related services. At all material times Respondent Taber Partners I has been engaged in operating a casino at the Hotel.

During the 12-month period preceding the issuance of the complaint, Respondent Taber Partners I, in conducting its business operations, derived gross revenues in excess of \$500,000 and purchased and received at its San Juan, Puerto Rico facility goods valued in excess of \$50,000 directly from points outside the Commonwealth of Puerto Rico.

We find that the Respondent and Respondent Taber Partners I are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following the election held June 16, 1994, the Union was certified on March 13, 1995, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All croupiers, cashiers, slot machine cashiers and doormen, working at the Employer's facility in Santurce, Puerto Rico, but excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. Refusal to Bargain

Since about March 29, 1995, and mid-March and March 21 and 29, 1995, respectively, the Union has requested the Respondent to bargain and to furnish necessary and relevant information, and since about March 29, 1995, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after March 29, 1995, to recognize and bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union necessary and relevant information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial pe-

riod of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. Mar-Jac Poultry Co., 136 NLRB 785 (1962); Lamar Hotel, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); Burnett Construction Co., 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Taber Partners I, d/b/a Ambassador Plaza Hotel & Casino, a Radisson Plaza Hotel and/or Taber Partners I, Santurce, Puerto Rico, its officers, agents, successors, and assigns, shall

- 1. Cease and desist from
- (a) Refusing to bargain with Union Gastronomica de Puerto Rico, Local 610, HEREIU, AFL—CIO as the exclusive bargaining representative of the employees in the bargaining unit, and to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.
- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All croupiers, cashiers, slot machine cashiers and doormen, working at the Respondent's facility in Santurce, Puerto Rico, but excluding all other employees, guards and supervisors as defined in the Act.

- (b) Furnish the Union the information that it requested in mid-March and on March 21 and 29, 1995.
- (c) Post at its facility in Santurce, Puerto Rico, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 24 after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Union Gastronomica de Puerto Rico, Local 610, HEREIU, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All croupiers, cashiers, slot machine cashiers and doormen, working at our facility in Santurce, Puerto Rico, but excluding all other employees, guards and supervisors as defined in the Act.

WE WILL furnish the Union the information that it requested in mid-March and on March 21 and 29, 1995.

TABER PARTNERS I, D/B/A AMBASSADOR PLAZA HOTEL & CASINO, A RADISSON PLAZA HOTEL AND/OR TABER PARTNERS I